IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 886 OF 2005

IN

SUIT NO. 1996 OF 1999

Alpic Finance Ltd. .... Plaintiffs.

Versus

Sewa Medicals Ltd.& anr..... ... Defendants.

A N D

The Court Receiver,High Court. ... Respondents.

A N D

Asset Reconstruction Co.India Ltd..... Applicants.

Mr.Pratik Sakseria i/by M/s.Manilal Kher Ambalal for the Applicants.

Mr. D. R. Dhurat, 1st Asstt. to Court Receiver,present.

CORAM: A. M. KHANWILKAR, J.

DATE : 2ND AUGUST, 2005

P.C.:

Heard Counsel for the Applicants and Mr. D. R. Dhurat, 1st Assistant to the Court Receiver (Respondent).

2. It is seen that Judge's Order was passed in Notice of Motion No. 1527 of 1999 on 17th January, 2001

directing the Court Receiver to take forcible possession of the leasehold / suit equipment more particularly described in the Schedule annexed to the Notice of Motion. The representative of the Court Receiver informs that the Plaintiffs did not provide costs and necessary facility to enable the Court Receiver to take over possession of the leasehold / suit equipment. Counsel for the Applicants submits that there can be another reason why the Court Receiver could not take possession. In his submission, the Defendant Company is before the BIFR and that the Applicants being secured creditor have succeeded in taking over possession of the disputed leasehold / suit equipment. When the Order was passed by this Court on 17th January, 2001, the Applicants were not before the Court.

3. Inspite of service of this Chamber Summons on concerned parties, none appears to oppose this Chamber Summons nor any reply has been filed controverting the assertion made in the affidavit in support of the Chamber Summons. In other words, assertion made in the affidavit in support of the Chamber Summons have remained uncontroverted. In the circumstances, the Applicants are entitled for relief in terms of prayer clause (a). Chamber Summons is, therefore, made absolute in terms of prayer clause (a).

4. Counsel for the Applicants has brought to my notice that the Applicants are not only in possession of the disputed property but are also in possession of other properties of the Defendant Company being secured creditor.

5. No order as to costs.

Sd/-

(A.M.KHANWILKAR, J.)